IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.1765 OF 2004

Bob Cards Ltd .. Plaintiff

versus

Shaikh Riyaz ... Defendant

Mr. Iqbal Punjwani for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 8th February, 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendant. The plaintiff has filed on record the affidavit of service dated 24th February, 2004 sworn by Mr.M.H.Gulhane clerk in the office ofthe Sheriff of Mumbai to prove the service of the writ of summons on the defendant. Despite service of the writ of summons, the defendant has not filed an appearance.

2. The plaintiff has filed on record the original documents alongwith a list. The documents are taken on record and collectively marked Exhibit A. The plaintiff granted to the defendant facility of credit

card under which the defendant was entitled to purchase goods without paying the shopkeeper at the point of purchase. The plaintiff would pay the shopkeeper and the defendant was required to pay to the plaintiff within specified time. The defendant utilised the facility of credit card and made purchases, but failed and neglected to make the payment to the plaintiff on the due date. The plaintiff has therefore filed this suit for recovery of the amount due from the defendant for purchases made by him by use of the credit card. The plaintiff has produced on record the original application form given by the defendant for obtaining the credit card and the statement of account. As the defendant has not filed any appearance by reason of sub-rule 3 of Rule 2 of Order XXXVII of the Code of Civil Procedure the defendant is deemed to have admitted the averments made in the plaint and the plaintiff is entitled to a decree under the said Rule.

3. Accordingly, suit of the plaintiff is decreed in terms of prayer (a) except the claim of service charge from the date of the suit. The plaintiff shall be entitled to interest @ 12 % p.a. from the date of the suit till payment and all costs of the suit. Issue court fee refund certificate as per the Rules.

D.G.KARNIK, J